

**JUDGE STEIN**

**08 CIV 6660**

ECF, JURY, RAMIREZ, TDIS

**U.S. District Court  
Northern District of Texas (Dallas)  
CIVIL DOCKET FOR CASE #: 3:07-cv-01465-D  
Internal Use Only**

Celanese Corporation v. Daicel Chemical Industries Ltd et al  
Assigned to: Judge Sidney A Fitzwater  
Cause: 28:1331 Fed. Question: Breach of Contract

Date Filed: 08/24/2007  
Date Terminated: 07/18/2008  
Jury Demand: Plaintiff  
~~Nature of Suit: 190 Contract: Other~~  
Jurisdiction: Federal Question

**Plaintiff**

**Celanese Corporation**

represented by **Patrick D Keating**

Haynes & Boone  
901 Main St  
Suite 3100  
Dallas, TX 75202-3789  
214/651-5000  
Fax: 214/200-0494 FAX  
Email: keatingp@haynesboone.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Theodore G Baroody**

Haynes & Boone  
901 Main St  
Suite 3100  
Dallas, TX 75202-3789  
214/651-5108  
Fax: 214/200-0831  
Email: baroodyt@haynesboone.com  
**ATTORNEY TO BE NOTICED**

**Vance Loren Beagles**

Weil Gotshal & Manges  
200 Crescent Court  
Suite 300  
Dallas, TX 75201  
214/746-7700  
Fax: 214/746-7777 FAX  
Email: vance.beagles@weil.com  
**ATTORNEY TO BE NOTICED**

A CERTIFIED COPY

J. MICHAEL McMAHON, CLERK

BY

*Catherine Laporte*  
DEPUTY CLERK

Certified a true copy of an instrument  
on file in my office on 7-21-08  
Clerk, U.S. District Court,  
Northern District of Texas  
By C. McMahon Deputy

V.

**Defendant**

**Daicel Chemical Industries Ltd**

represented by **Karen L Hirschman**

Vinson & Elkins  
2001 Ross Avenue  
Suite 3700  
Dallas, TX 75201  
214/220-7795  
Fax: 214/220-7716 FAX  
Email: khirschman@velaw.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Marc A Fuller**  
Vinson & Elkins  
2001 Ross Avenue  
Suite 3700  
Dallas, TX 75201  
214/220-7881  
Fax: 214/999-7881  
Email: mfuller@velaw.com  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Polyplastics Company Ltd**

represented by **Vance Loren Beagles**

(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Liani Kotcher**  
Weil Gotshal & Manges  
200 Crescent Court  
Suite 300  
Dallas, TX 75201  
214/746-8157  
Email: liani.kotcher@weil.com  
*ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
08/24/2007	<u>1</u>	COMPLAINT against Daicel Chemical Industries Ltd, Polyplastics Company Ltd filed by Celanese Corporation. (Filing fee \$350; Receipt number 14333) (klm) (Entered: 08/27/2007)

08/24/2007		***Magistrate Judge Ramirez chosen by random selection to handle matters that may be referred in this case. (klm) (Entered: 08/27/2007)
08/24/2007		DEMAND for Trial by Jury by Celanese Corporation. (see doc. 1 for image) (klm) (Entered: 08/27/2007)
08/24/2007	<u>2</u>	CERTIFICATE OF INTERESTED PERSONS by Celanese Corporation. (klm) (Entered: 08/27/2007)
08/24/2007	<u>3</u>	Disclosure Statement by Celanese Corporation. (klm) (Entered: 08/27/2007)
08/24/2007	<u>5</u>	Order Designating Case for ECF - see order for specifics. (Signed by Judge Sidney A Fitzwater on 8/24/07) (klm) (Entered: 08/27/2007)
08/27/2007	<u>4</u>	Summons Issued as to Daicel Chemical Industries Ltd, Polyplastics Company Ltd. (klm) (Entered: 08/27/2007)
12/21/2007	<u>6</u>	NOTICE of Status of Service of Process by Celanese Corporation. (Bloom, Jason) Modified on 12/27/2007 (lmp). (Entered: 12/21/2007)
03/07/2008	<u>7</u>	Joint Motion for Extension of Time to File Answer , <i>Move or Otherwise Respond to the Complaint</i> by Polyplastics Company Ltd, and all parties. (Attachments: # <u>1</u> Text of Proposed Order) (Beagles, Vance) Modified on 3/10/2008 (npk). (Entered: 03/07/2008)
03/07/2008	<u>8</u>	ORDER granting <u>7</u> Joint Motion for Extension of Time to File Answer, Move or Otherwise Respond to the Complaint re <u>1</u> Complaint. Daicel Chemical Industries Ltd answer due 6/6/2008; Polyplastics Company Ltd answer due 6/6/2008. (Signed by Judge Sidney A Fitzwater on 3/07/08) (npk) (Entered: 03/10/2008)
05/27/2008	<u>9</u>	Joint MOTION to Extend Time to Enlarge Time to Answer, Move or Otherwise Response to the Complaint filed by Celanese Corporation, Daicel Chemical Industries Ltd, Polyplastics Company Ltd (Attachments: # <u>1</u> Text of Proposed Order) (Beagles, Vance) (Entered: 05/27/2008)
05/27/2008	<u>10</u>	ORDER granting <u>9</u> Joint Motion to Extend Time to Answer. Defendants shall have until June 20, 2008 to answer or otherwise respond to plaintiff's complaint. (Signed by Judge Sidney A Fitzwater on 5/27/08) (klm) (Entered: 05/28/2008)
06/18/2008	<u>11</u>	Joint Motion for Extension of Time to File Answer , <i>Move or Otherwise Respond to the Complaint</i> filed by Celanese Corporation, Daicel Chemical Industries Ltd, Polyplastics Company Ltd (Attachments: # <u>1</u> Text of Proposed Order) (Beagles, Vance) (Entered: 06/18/2008)
06/18/2008	<u>12</u>	ORDER granting <u>11</u> Joint Motion for Extension of Time to File Answer, Move or Otherwise Respond to the Complaint. Daicel Chemical Industries Ltd answer due 7/21/2008; Polyplastics Company Ltd answer due 7/21/2008. (Signed by Judge Sidney A Fitzwater on 06/18/08) (lmp) (Entered: 06/19/2008)
07/17/2008	<u>13</u>	Joint MOTION to Transfer Case out of District filed by Celanese Corporation, Daicel Chemical Industries Ltd, Polyplastics Company Ltd. (Attachments: # <u>1</u> Text of Proposed Order) (Beagles, Vance) Modified on 7/18/2008 (jyg).

		(Entered: 07/17/2008)
07/17/2008		Motion for Extension of Time to File Answer, Move or Otherwise Respond to the Complaint filed by Celanese Corporation, Daicel Chemical Industries Ltd, Polyplastics Company Ltd. See doc #13 for image. (jyg) (Entered: 07/18/2008)
07/18/2008	<u>14</u>	ORDER granting <u>13</u> Joint Motion to Transfer Venue to the Southern District of New York and Enlarge Time to Answer, Mover, or Otherwise Respond to the Complaint. Accordingly, this action is hereby transferred to the United States District Court for the Southern District of New York, and defendants' time to answer, move, or otherwise respond to the complaint is extended to and including August 20, 2008. (Signed by Judge Sidney A Fitzwater on 7/18/2008) (axm) (Entered: 07/18/2008)
07/18/2008		Interdistrict Transfer to Southern District of New York. (axm) (Entered: 07/21/2008)

118 CIV 6660

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

CELANESE CORPORATION,

Plaintiff,

VS.

DAICEL CHEMICAL INDUSTRIES,  
LTD., et al.,

Defendants.

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§ Civil Action No. 3:07-CV-1465-D  
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**ORDER**

To conserve party and judicial resources, and in light of the parties' ongoing efforts to resolve this dispute, the court grants the parties' July 17, 2008 joint motion to transfer venue to the Southern District of New York and enlarge time to answer, move or otherwise respond to the complaint, without waiver of any rights regarding jurisdictional defenses or motions that might be made pursuant to Rule 12 of the Federal Rules of Civil Procedure.

Accordingly, this action is hereby transferred to the United States District Court for the Southern District of New York, and defendants' time to answer, move, or otherwise respond to the complaint is extended to and including August 20, 2008.

**SO ORDERED.**

July 18, 2008.

*Sidney A. Fitzwater*  
SIDNEY A. FITZWATER  
CHIEF JUDGE

Certified a true copy of an instrument  
on file in my office on 7-21-08  
Clerk, U.S. District Court,  
Northern District of Texas  
By J. McMahon Deputy

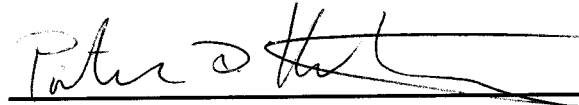
A CERTIFIED COPY  
J. MICHAEL McMAHON,

CLERK  
BY Catherine Lapsley  
DEPUTY CLERK

PAGE 1 OF 2

Dated: August 24, 2007

By:



Patrick D. Keating  
Texas State Bar No. 00794074  
Theodore G. Baroody  
Texas State Bar No. 0179550

Haynes and Boone, LLP  
901 Main Street, Suite 3100  
Dallas, Texas 75202  
(214) 651-5406

Counsel for Plaintiff  
CELANESE CORPORATION

D-1560532\_1.DOC



**FILED**

AUG 24 2007

CLERK, U.S. DISTRICT COURT

By                      Deputy                     

ORIGINAL

CELANESE CORPORATION,

*Plaintiff,*

V.

DAICEL CHEMICAL INDUSTRIES, LTD.,  
and POLYPLASTICS COMPANY, LTD.,

*Defendants.*

CASE NO: \_\_\_\_\_

CIVIL CASE

CIVIL CASE  
**307 - CV1465 -D**  
JURY DEMANDED

## PLAINTIFF'S DISCLOSURE STATEMENT

In accordance with FRCP 7.1, Plaintiff Celanese Corporation hereby states that there is no parent corporation or any publicly held corporation that owns 10% or more of its stock.



Dated: August 24, 2007

By:

Patrick D. Keating w/p Theodore G. Barody

Patrick D. Keating

Texas State Bar No. 00794074

Theodore G. Barody

Texas State Bar No. 01797550

Haynes and Boone, LLP

901 Main Street, Suite 3100

Dallas, Texas 75202

(214) 651-5406

Counsel for Plaintiff

CELANESE CORPORATION

D-1560532\_1.DOC

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

NORTHERN

District of

TEXAS, DALLAS DIVISION

CELANESE CORPORATION

SUMMONS IN A CIVIL ACTION

V.

DAICEL CHEMICAL INDUSTRIES, LTD., and  
POLYPLASTICS COMPANY, LTD.

CASE NUMBER:

**307 - CV 1465 - D**

TO: (Name and address of Defendant)

Daicel Chemical Industries, Ltd.  
c/o Mr. Daisuke Ogawa, President and Chief Executive Officer  
1, Teppo-cho, Sakai-ku, Sakai, Osaka 590-8501, Japan.

**YOU ARE HEREBY SUMMONED** and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Patrick D. Keating  
Haynes and Boone, LLP  
901 Main Street, Suite 3100  
Dallas, Texas 75202

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

**CLERK OF COURT**

**AUG 27 2007**

CLERK

DATE

(By) DEPUTY CLERK

AO 440 (Rev. 8/01) Summons in a Civil Action

<b>RETURN OF SERVICE</b>		
Service of the Summons and complaint was made by me <sup>(1)</sup>	DATE	
NAME OF SERVER ( <i>PRINT</i> )	TITLE	
<i>Check one box below to indicate appropriate method of service</i>		
<input type="checkbox"/> Served personally upon the defendant. Place where served:  <input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left:  <input type="checkbox"/> Returned unexecuted:  <input type="checkbox"/> Other (specify):		
<b>STATEMENT OF SERVICE FEES</b>		
TRAVEL	SERVICES	TOTAL \$0.00
<b>DECLARATION OF SERVER</b>		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on _____ Date _____ Signature of Server _____</p> <p style="text-align: center;">_____ Address of Server</p>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

NORTHERN

District of

TEXAS, DALLAS DIVISION

CELANESE CORPORATION

SUMMONS IN A CIVIL ACTION

V.

DAICEL CHEMICAL INDUSTRIES, LTD., and  
POLYPLASTICS COMPANY, LTD.

CASE NUMBER:

**307 - CV1465 - D**

TO: (Name and address of Defendant)

Polyplastics Company, Ltd.  
c/o Yasumasa Komura, President and Chief Executive Officer  
18-1, Konan 2-Chome, Minato-Ku, Tokyo 108-8280, Japan

**YOU ARE HEREBY SUMMONED** and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Patrick D. Keating  
Haynes and Boone, LLP  
901 Main Street, Suite 3100  
Dallas, Texas 75202

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

**CLERK OF COURT**

**AUG 27 2007**

CLERK

DATE

(By) DEPUTY CLERK

AO 440 (Rev. 8/01) Summons in a Civil Action

<b>RETURN OF SERVICE</b>		
Service of the Summons and complaint was made by me <sup>(1)</sup>	DATE	
NAME OF SERVER ( <i>PRINT</i> )	TITLE	
<i>Check one box below to indicate appropriate method of service</i>		
<div style="margin-bottom: 10px;"> <input type="checkbox"/> Served personally upon the defendant. Place where served:                 </div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.                      Name of person with whom the summons and complaint were left:                 </div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Returned unexecuted:                 </div> <div> <input type="checkbox"/> Other (specify):                 </div>		
<b>STATEMENT OF SERVICE FEES</b>		
TRAVEL	SERVICES	TOTAL \$0.00
<b>DECLARATION OF SERVER</b>		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <div style="margin-top: 20px;">                         Executed on _____ Date _____ Signature of Server _____                     </div> <div style="margin-top: 20px;">                         _____ Address of Server _____                     </div>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

Revised 12/11/06

**TO: All Attorneys of Record Appearing in a Case Assigned to United States District Judge Sidney A. Fitzwater and Designated for Enrollment in the Electronic Case Files System (including Attorneys in *pro se* cases)**

**STANDING ORDER<sup>1</sup> DESIGNATING CASE FOR ENROLLMENT  
IN THE ELECTRONIC CASE FILES “ECF” SYSTEM**

The court has determined that this case will be enrolled in the Electronic Case Files (“ECF”) system as an ECF case. Therefore, it is **ordered** that all counsel of record must register as an ECF user **within ten days of the date of notice of this order**, if they have not already done so. Licensed attorneys are **permitted, not required**, to file documents electronically in this case. Only licensed attorneys may submit documents for electronic filing; therefore, no *pro se* party (including a prisoner) will be permitted to register as an ECF user or submit documents electronically. To register, counsel must:

1. Review Miscellaneous Order Number 61;
2. Review the ECF Administrative Procedures Manual;
3. Complete the online attorney tutorial for ECF training;
4. Review the ECF User Guide;

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<sup>1</sup>Upon opening a new case, the clerk must enter this Standing Order. If the plaintiff or petitioner in a civil action is proceeding *pro se*, the clerk may not distribute this order unless there is an order for process to issue. If process is ordered to issue, the clerk is directed at that time to send a copy of this order to the defendant or respondent with the service of the summons or show cause order.

5. Complete the ECF Attorney/User Registration Form and forward it to the Clerk's Office; and
6. Ensure that any attorney granted *pro hac vice* admission as co-counsel in this case also registers as an ECF user.

**Duty of Initiating Party  
to Serve ECF Designation Order upon Opposing Party**

It is further **ordered** that in a civil ECF case, the party initiating the action in this court must serve a copy of this order on the opposing party(ies) with service of process or within five days of receipt of this order, whichever is later. If an additional party is joined in a civil ECF case at a later date, the party joining the additional party is **ordered** to serve a copy of this order on the additional party within five days of when the additional party is joined.

In a criminal ECF case, it is **ordered** that the government serve a copy of this order on defendant's counsel when defendant's counsel makes an appearance in the case on behalf of the defendant.

**Electronic Case Files Requirements**

After an attorney is registered as an ECF user, the attorney may submit documents for filing in this case using the ECF system. In doing so, counsel must observe the following directives:



1. **Governing Documents:** The case will be governed, unless otherwise ordered, by Miscellaneous Order Number 61, the ECF Administrative Procedures Manual, and the ECF User Guide.
2. **Service of Documents upon Non-ECF Users:** Service of documents upon non-ECF users (including *pro se* litigants) must be effected on paper in a manner authorized by Federal Rule of Civil Procedure 5.
3. **Courtesy Copies (“paper copies” of filings in ECF cases):** Each judge listed on the reference chart included as Attachment 1 to this Standing Order has specific requirements for courtesy copies. Each courtesy copy must be marked “Judge’s Copy,” must have a copy of the Notice of Electronic Filing<sup>2</sup> for that document affixed as the first page, must be delivered to the court within **three business days** of the date of filing of the original document, and must be in the form required by LR 10.1 and LCrR 49.3. The court, in its discretion, may not begin its consideration of the document until it has received the required courtesy copy. Furthermore, failure to follow the courtesy copy requirements of the presiding judge may result in the document being unfiled. If the courtesy copy is mailed directly to the chambers of the presiding judge, delivery is complete upon mailing. Hand-deliveries must be made to the clerk’s office

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<sup>2</sup>A link to the Notice of Electronic Filing and the electronically filed document will be automatically e-mailed to the filer upon the completion of the electronic filing procedure.

at 1100 Commerce Street, Room 1452, Dallas, Texas 75242, must be enclosed in a sealed envelope that bears the name of the judge to whom the courtesy copy is directed, and must identify itself as a “Courtesy Copy.”

*The court will not accept hand deliveries brought directly to chambers unless it specifically instructs a party to do so.* **Please Note:** If this case or any portion of this case is referred to a United States Magistrate Judge, the magistrate judge may enter an order with additional specific requirements. Please see the magistrate judge’s order for details.

4. **Proposed Orders:** A proposed order must be submitted with **every** motion via e-mail as instructed under the ECF system’s “Proposed Orders” event. The subject line of the e-mail transmitting the proposed order must be complete as directed in the instructions.
5. **Documents Which Require Leave of Court to File:** A party who moves for leave of court to file an amended pleading, or for leave of court to file any other document (e.g., surreply, document exceeding the page limit, etc.), must attach the proposed document as an exhibit to the motion for leave. If the motion for leave is granted, the moving party must **THEN submit the document for which leave was granted within three days AFTER** leave is granted, unless otherwise ordered by the court. Attorneys

are cautioned not to prematurely file a document that requires leave of court to file.

6. **Privacy Policy:** Counsel must ensure that all documents filed with the court strictly comply with the privacy policy of the United States District Court for the Northern District of Texas. The privacy policy restricts the use and manner of use of certain types of information, including: social security numbers, driver license numbers, tax identification numbers, minors' names, birth dates, financial account numbers, credit card numbers, medical records, employment histories, proprietary or trade secret information, crime victim information, national security information, sensitive security information as described in 49 U.S.C. § 114(s), and information regarding an individual's cooperation with the government. The complete privacy policy may be found at <http://www.txnd.uscourts.gov/pdf/TXNprivnot.pdf>.
7. **Questions:** ECF questions should be directed to the Office of the Clerk at (214)753-2200 or the ECF Help Desk at (866) 243-2866.

*ATTACHMENT 1***COURTESY COPY REQUIREMENTS**

<b>JUDGE</b>	<b>COPY REQUIREMENTS</b>	<b>MAILED TO:</b>
A. Joe Fish	Civil and Criminal Cases: ALL FILINGS	1100 Commerce Street, Room 1528 Dallas, TX 75242
Sidney A. Fitzwater	Civil and Criminal Cases: ALL FILINGS	1100 Commerce Street, Room 1520 Dallas, TX 75242
Jorge A. Solis	Civil and Criminal Cases: ALL FILINGS, including Proposed Orders	1100 Commerce Street, Room 1654 Dallas, TX 75242
Sam A. Lindsay	Civil Cases: All Dispositive Motions, Responses, Replies and Appendices thereto <b>and</b> any document over 25 pages in length Criminal Cases: ALL FILINGS	1100 Commerce Street, Room 1312 Dallas, TX 75242
Barbara M.G. Lynn	Civil Cases: All Dispositive Motions, Responses, Replies and Appendices thereto <b>and</b> any document over 25 pages in length Criminal Cases: None Required	1100 Commerce Street, Room 1572 Dallas, TX 75242 Note: Hand-deliveries to chambers are allowed.
David C. Godbey	<b>No</b> Courtesy Copies Required	
Ed Kinkeade	Civil Cases: All Dispositive Motions, Responses, Replies, and Appendices thereto <b>and</b> any document over 25 pages in length Criminal Cases: None Required	1100 Commerce Street, Room 1625 Dallas, TX 75242
Jane J. Boyle	Civil and Criminal Cases: All Dispositive Motions, Responses, Replies, and Appendices thereto	1100 Commerce Street, Room 1376 Dallas, TX 75242
Jerry Buchmeyer	Civil and Criminal Cases: All Dispositive Motions, Responses, Replies, and Appendices thereto (including Joint Submissions)	1100 Commerce Street, Room 1544 Dallas, TX 75242

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

CELANESE CORPORATION,

*Plaintiff,*

v.

DAICEL CHEMICAL INDUSTRIES, LTD.,  
and POLYPLASTICS COMPANY, LTD.,

*Defendants.*

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CASE NO: 3:07-CV-1465-D

CIVIL CASE

JURY DEMANDED

**PLAINTIFF'S NOTICE OF STATUS OF SERVICE OF PROCESS**

Plaintiff Celanese Corporation ("Celanese") files this notice to inform the Court regarding the status of completing service of process upon Defendants Daicel Chemical Industries, Ltd. and Polyplastics Company, Ltd. As indicated in Celanese's Complaint, upon information and belief, Defendants are Japanese corporations. Celanese has filed documents with the Central Authority of Japan requesting that agency to complete service of process upon the Defendants pursuant to the Hague Convention on service. Celanese cannot influence the speed at which the Central Authority of Japan will complete service of process. At this time, Celanese estimates that it may take at least three to four months for the Central Authority of Japan to complete service upon the Defendants.

Dated: December 21, 2007

Respectfully submitted,

/s Patrick D. Keating

Patrick D. Keating

Texas State Bar No. 00794074

Theodore G. Baroody

Texas State Bar No. 0179550

HAYNES AND BOONE, L.L.P.

901 Main St., Suite 3100

Dallas, Texas 75202-3789

Telephone: (214) 651-5000

Telecopier: (214) 651-5940

Counsel for Plaintiff

CELANESE CORPORATION

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

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CELANESE CORPORATION,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Case No: 3:07–CV1465–D
	:	
DAICEL CHEMICAL INDUSTRIES, LTD., and	:	<b>ECF</b>
POLYPLASTICS COMPANY, LTD.,	:	
	:	
Defendants.	:	
	:	
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	:	
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**JOINT MOTION ENLARGING TIME TO ANSWER,  
MOVE OR OTHERWISE RESPOND TO THE COMPLAINT**

Plaintiff Celanese Corporation (“Plaintiff”) and defendants Daicel Chemical Industries, Ltd. (“Daicel”) and Polyplastics Company, Ltd. (“Polyplastics”) (collectively “Defendants”) jointly move this Court to extend Defendants’ time to answer, move or otherwise respond to the Complaint in this action (“Complaint”) up to and including Friday, June 6, 2008. Specifically, the parties jointly propose to suspend litigation activity, including motion practice and discovery, in order to engage in discussions regarding potential resolution of the dispute or referral of the dispute to an alternative dispute resolution procedure. In support of this joint motion, Plaintiff and Defendants (together, the “Parties”) state as follows:

1. On August 24, 2007, Plaintiff filed the Complaint in the above-captioned matter in the United States District Court for the Northern District of Texas, Dallas Division.



2. Polyplastics was served with the Complaint on February 19, 2008 and Daicel was served with the Complaint on February 21, 2008. Therefore, Polyplastics' current deadline to answer or otherwise respond to the Complaint is March 10, 2008 and Daicel's current deadline to answer or otherwise respond to the Complaint is March 12, 2008. No previous extensions have been sought of the deadline to answer or otherwise respond.

3. The Parties are engaged in discussions regarding the potential resolution of the litigation or referral of the dispute to an alternative dispute resolution procedure. The Parties agree that additional time to answer would be in the interest of justice, would not be for the purpose of delaying the litigation, and would facilitate the resolution of the dispute in a manner that would best serve the interests of the Parties and judicial efficiency.

4. By making this motion and by accepting the terms of the Proposed Agreed Order, the Parties do not waive their rights with respect to any other potential issues in this litigation, including their respective positions regarding jurisdictional defenses under Rule 12 of the Federal Rules of Civil Procedure either by motion or otherwise, or any other motion that they may make.

WHEREFORE, the Parties respectfully request this Court order as follows:

1. The deadline for Defendants to answer, move, or otherwise respond to the Complaint be extended up to and including Friday, June 6, 2008.

Respectfully submitted this 7th day March, 2008.

/s/ Robert C. Walters

Robert C. Walters  
Texas Bar No. 20820300  
Marc A. Fuller  
Texas Bar No. 24032210  
VINSON & ELKINS LLP  
Trammell Crow Center  
2001 Ross Avenue, Suite 3700  
Dallas, Texas 75201-2975  
Telephone: (214) 220-7704  
Facsimile: (214) 999-7704

*Attorneys for Defendant Daicel Chemical  
Industries, Ltd.*

/s/ Vance L. Beagles

Vance L. Beagles  
Texas Bar No. 00787052  
Liani Kotcher  
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200 Crescent Court, Suite 300  
Dallas, Texas 75201  
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Facsimile: (214) 746-7777

*Attorneys for Defendant Polyplastics Company, Ltd.*

/s/ Patrick D. Keating

Patrick D. Keating  
Texas Bar No. 00794074  
Theodore G. Barody  
Texas Bar No. 01797550  
HAYNES AND BOONE, LLP  
901 Main Street, Suite 3100  
Dallas, TX 75202  
Telephone: (214) 651-5406  
Facsimile: (214) 200-0494

*Attorneys for Plaintiff Celanese Corporation*

**CERTIFICATE OF CONFERENCE**

This is to certify that on the 6th day of March 2008, counsel for Defendant spoke with counsel for Celanese Corporation, who indicated that they agreed to the Joint Motion Enlarging Time to Answer, Move or Otherwise Respond to the Complaint.

/s/ Liani Kotcher

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**CERTIFICATE OF SERVICE**

I hereby certify that on March 7, 2008, I electronically transmitted the Joint Motion Enlarging Time to Answer, Move or Otherwise Respond to the Complaint using the ECF system for filing and transmittal of a Notice of Electronic Filing to those parties registered for ECF in this case. I further certify that the foregoing document was served on all counsel of record by ECF.

/s/ Liani Kotcher

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

-----	x	
	:	
CELANESE CORPORATION,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Case No: 3:07-CV1465-D
	:	
DAICEL CHEMICAL INDUSTRIES, LTD., and	:	
POLYPLASTICS COMPANY, LTD.,	:	
	:	<b>ECF</b>
Defendants.	:	
	:	
	:	
	:	
	:	
	:	
	:	
-----	x	

**[PROPOSED] AGREED ORDER ENLARGING TIME TO ANSWER,  
MOVE OR OTHERWISE RESPOND TO THE COMPLAINT**

To conserve party and judicial resources and in light of the parties' ongoing efforts to resolve this dispute or reach agreement regarding alternative dispute resolution, the Court hereby GRANTS the parties' Joint Motion Enlarging Time To Answer, Move or Otherwise Respond to the Complaint, without waiver of any rights regarding jurisdictional defenses or motions that might be made pursuant to Rule 12 of the Federal Rules of Civil Procedures. Defendants' time to answer, move, or otherwise respond to the Complaint is extended up to and including Friday, June 6, 2008.

IT IS SO ORDERED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Honorable Sidney A. Fitzwater  
United States District Judge

/s/ Robert C. Walters

---

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*Attorneys for Defendant Daicel Chemical  
Industries, Ltd.*

/s/ Vance L. Beagles

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*Attorneys for Defendant Polyplastics Company, Ltd.*

/s/ Patrick D. Keating

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*Attorneys for Plaintiff Celanese Corporation*

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION


CELANESE CORPORATION,	§	
	§	
Plaintiff,	§	
	§	Civil Action No. 3:07-CV-1465-D
VS.	§	
	§	
DAICEL CHEMICAL INDUSTRIES,	§	
LTD., et al.,	§	
	§	
Defendants.	§	

**ORDER**

The March 7, 2008 joint motion enlarging time to answer, move, or otherwise respond is granted, and defendants shall have until June 6, 2008 to answer or otherwise respond to plaintiff's complaint.

**SO ORDERED.**

March 7, 2008.

  
\_\_\_\_\_  
SIDNEY A. FITZWATER  
CHIEF JUDGE



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

-----	X	
CELANESE CORPORATION,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Case No: 3:07-CV1465-D
	:	
DAICEL CHEMICAL INDUSTRIES, LTD., and	:	
POLYPLASTICS COMPANY, LTD.,	:	ECF
	:	
Defendants.	:	
	:	
	:	
	:	
	:	
	:	
-----	X	

**JOINT MOTION ENLARGING TIME TO ANSWER,  
MOVE OR OTHERWISE RESPOND TO THE COMPLAINT**

Plaintiff Celanese Corporation (“Plaintiff”) and defendants Daicel Chemical Industries, Ltd. (“Daicel”) and Polyplastics Company, Ltd. (“Polyplastics”) (collectively “Defendants”) jointly move this Court to extend Defendants’ time to answer, move or otherwise respond to the Complaint in this action (“Complaint”) up to and including June 20, 2008. Specifically, the parties jointly propose to suspend litigation activity in order to continue ongoing discussions regarding potential resolution of the dispute or referral of the dispute to an alternative dispute resolution procedure. In support of this joint motion, Plaintiff and Defendants (together, the “Parties”) state as follows:

1. On August 24, 2007, Plaintiff filed the Complaint in the above-captioned matter in the United States District Court for the Northern District of Texas, Dallas Division.

2. Polyplastics was served with the Complaint on February 19, 2008 and Daicel was served with the Complaint on February 21, 2008. Polyplastics' deadline to answer or otherwise respond to the Complaint was March 10, 2008 and Daicel's deadline to answer or otherwise respond to the Complaint was March 12, 2008.

3. On March 7, 2008, the Parties sought an extension of these deadlines until June 6, 2008 in light of the Parties' efforts to discuss potential resolution of the litigation or referral of the dispute to an alternative dispute resolution procedure. The Parties agreed that additional time to answer would be in the interest of justice, would not be for the purpose of delaying the litigation, and would facilitate the resolution of the dispute in a manner that would best serve the interests of the Parties and judicial efficiency.

4. The Parties are continuing these efforts to discuss potential resolution of the litigation, and thus, a further extension of time allowing a new deadline of June 20, 2008, would be in the interest of justice, would not be for the purpose of delaying the litigation, and would facilitate the resolution of the dispute in a manner that would best serve the interests of the Parties and judicial efficiency.

5. By making this motion and by accepting the terms of the Proposed Agreed Order, the Parties do not waive their rights with respect to any other potential issues in this litigation, including their respective positions regarding jurisdictional defenses under Rule 12 of the Federal Rules of Civil Procedure either by motion or otherwise, or any other motion that they may make.

WHEREFORE, the Parties respectfully request this Court order as follows:

1. The deadline for Defendants to answer, move, or otherwise respond to the Complaint be extended up to and including June 20, 2008.

Respectfully submitted this 27th day May, 2008.

/s/Karen L. Hirschman

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*Attorneys for Defendant Polyplastics Company, Ltd.*

/s/Patrick D. Keating

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*Attorneys for Plaintiff Celanese Corporation*

CERTIFICATE OF CONFERENCE

This is to certify that on the 23rd day of May 2008, counsel for Defendants spoke with counsel for Celanese Corporation, who indicated that they agreed to the Joint Motion Enlarging Time to Answer, Move or Otherwise Respond to the Complaint.

/s/ Liani Kotcher

### CERTIFICATE OF SERVICE

I hereby certify that on May 27th, 2008, I electronically transmitted the Joint Motion Enlarging Time to Answer, Move or Otherwise Respond to the Complaint using the ECF system for filing and transmittal of a Notice of Electronic Filing to those parties registered for ECF in this case. I further certify that the foregoing document was served on all counsel of record by ECF.

/s/Liani Kotcher

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

-----	X	
	:	
CELANESE CORPORATION,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Case No: 3:07-CV1465-D
	:	
DAICEL CHEMICAL INDUSTRIES, LTD., and	:	
POLYPLASTICS COMPANY, LTD.,	:	
	:	ECF
Defendants.	:	
	:	
	:	
	:	
	:	
	:	
-----	X	

**[PROPOSED] AGREED ORDER ENLARGING TIME TO ANSWER,  
MOVE OR OTHERWISE RESPOND TO THE COMPLAINT**

To conserve party and judicial resources and in light of the parties' ongoing efforts to resolve this dispute or reach agreement regarding alternative dispute resolution, the Court hereby GRANTS the parties' Joint Motion Enlarging Time To Answer, Move or Otherwise Respond to the Complaint, without waiver of any rights regarding jurisdictional defenses or motions that might be made pursuant to Rule 12 of the Federal Rules of Civil Procedures. Defendants' time to answer, move, or otherwise respond to the Complaint is extended up to and including June 20, 2008.

IT IS SO ORDERED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Honorable Sidney A. Fitzwater  
United States District Judge

/s/Karen L. Hirschman

Karen L. Hirschman  
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*Attorneys for Defendant Polyplastics Company, Ltd.*

/s/Patrick D. Keating

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*Attorneys for Plaintiff Celanese Corporation*



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

CELANESE CORPORATION,	§	
	§	
Plaintiff,	§	
	§	Civil Action No. 3:07-CV-1465-D
VS.	§	
	§	
DAICEL CHEMICAL INDUSTRIES,	§	
LTD., et al.,	§	
	§	
Defendants.	§	

**ORDER**

The May 27, 2008 joint motion enlarging time to answer, move, or otherwise respond to the complaint is granted, and defendants shall have until June 20, 2008 to answer or otherwise respond to plaintiff's complaint.

**SO ORDERED.**

May 27, 2008.

  
\_\_\_\_\_  
SIDNEY A. FITZWATER  
CHIEF JUDGE

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

-----	X	
CELANESE CORPORATION,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Case No: 3:07-CV1465-D
	:	
DAICEL CHEMICAL INDUSTRIES, LTD., and	:	<b>ECF</b>
POLYPLASTICS COMPANY, LTD.,	:	
	:	
Defendants.	:	
	:	
	:	
	:	
	:	
	:	
-----	X	

**JOINT MOTION ENLARGING TIME TO ANSWER,  
MOVE OR OTHERWISE RESPOND TO THE COMPLAINT**

Plaintiff Celanese Corporation ("Plaintiff") and defendants Daicel Chemical Industries, Ltd. ("Daicel"), and Polyplastics Company, Ltd. ("Polyplastics") (collectively "Defendants"), jointly move this Court to extend Defendants' time to answer, move or otherwise respond to the Complaint in this action ("Complaint") up to and including July 21, 2008. Specifically, Plaintiff and Defendants (together, the "Parties") jointly propose to extend this deadline in order to continue ongoing discussions between high level management regarding potential resolution of the dispute. In support of this joint motion, the Parties state as follows:

1. On August 24, 2007, Plaintiff filed the Complaint in the above-captioned matter in the United States District Court for the Northern District of Texas, Dallas Division.
2. Polyplastics was served with the Complaint on February 19, 2008 and Daicel was served with the Complaint on February 21, 2008. Polyplastics' original deadline to answer or

otherwise respond to the Complaint was March 10, 2008 and Daicel's original deadline to answer or otherwise respond to the Complaint was March 12, 2008.

3. On March 7, 2008, the Parties sought an extension of these deadlines until June 6, 2008 in light of the Parties' efforts to discuss potential resolution of the litigation or referral of the dispute to an alternative dispute resolution procedure. The Parties agreed that additional time to answer would be in the interest of justice, would not be for the purpose of delaying the litigation, and would facilitate the resolution of the dispute in a manner that would best serve the interests of the Parties and judicial efficiency. The June 6, 2008 deadline was subsequently extended by an additional two weeks by agreement of all Parties and order of the Court to June 20, 2008.

4. The Parties are continuing their efforts to discuss potential resolution of the litigation, and thus, a further extension of time allowing a new deadline of July 21, 2008, would be in the interest of justice, would not be for the purpose of delaying the litigation, and would facilitate the resolution of the dispute in a manner that would best serve the interests of the Parties and judicial efficiency.

5. Specifically, top managerial personnel of each of the Parties have attended meetings within the last several weeks to discuss this litigation, including in-person meetings between key business personnel on June 13-14. Among the topics being discussed in these meetings are a possible agreement to resolve some or all of the issues in dispute between the Parties, and possible alternative mechanisms for resolving and streamlining the disputes, including the possibility of a joint motion to transfer the case to the Southern District of New York. The Parties plan to conduct additional meetings among high level business personnel. A further extension of time, therefore, will assist the Parties in furthering their negotiations

regarding these and other issues in an effort to narrow or resolve the actual disputed issues between them.

6. By making this motion and by accepting the terms of the Proposed Agreed Order, the Parties do not waive their rights with respect to any other potential issues in this litigation, including their respective positions regarding jurisdictional defenses under Rule 12 of the Federal Rules of Civil Procedure either by motion or otherwise, or any other motion that they may make.

WHEREFORE, the Parties respectfully request this Court order as follows:

1. The deadline for Defendants to answer, move, or otherwise respond to the Complaint be extended up to and including July 21, 2008.

Respectfully submitted this 18th day of June, 2008.

/s/Karen L. Hirschman

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*Attorneys for Defendant Daicel Chemical  
Industries, Ltd.*

/s/Vance L. Beagles

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/s/Patrick D. Keating

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Telephone: (214) 651-5406

Facsimile: (214) 200-0494

*Attorneys for Plaintiff Celanese Corporation*

**CERTIFICATE OF CONFERENCE**

This is to certify that on the 18th day of June 2008, counsel for Defendants spoke with counsel for Celanese Corporation, who indicated that they agreed to the Joint Motion Enlarging Time to Answer, Move or Otherwise Respond to the Complaint.

/s/ Liani Kotcher \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I hereby certify that on June 18, 2008, I electronically transmitted the Joint Motion Enlarging Time to Answer, Move or Otherwise Respond to the Complaint using the ECF system for filing and transmittal of a Notice of Electronic Filing to those parties registered for ECF in this case. I further certify that the foregoing document was served on all counsel of record by ECF.

/s/Liani Kotcher \_\_\_\_\_

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

-----	X	
	:	
CELANESE CORPORATION,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Case No: 3:07-CV1465-D
	:	
DAICEL CHEMICAL INDUSTRIES, LTD., and	:	
POLYPLASTICS COMPANY, LTD.,	:	
	:	<b>ECF</b>
Defendants.	:	
	:	
	:	
	:	
	:	
	:	
	:	
-----	X	

**[PROPOSED] AGREED ORDER ENLARGING TIME TO ANSWER,  
MOVE OR OTHERWISE RESPOND TO THE COMPLAINT**

To conserve party and judicial resources and in light of the parties' ongoing efforts to resolve this dispute, the Court hereby GRANTS the parties' Joint Motion Enlarging Time To Answer, Move or Otherwise Respond to the Complaint, without waiver of any rights regarding jurisdictional defenses or motions that might be made pursuant to Rule 12 of the Federal Rules of Civil Procedures. Defendants' time to answer, move, or otherwise respond to the Complaint is extended up to and including July 21, 2008.

IT IS SO ORDERED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Honorable Sidney A. Fitzwater  
United States District Judge

/s/Karen L. Hirschman

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*Attorneys for Plaintiff Celanese Corporation*

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

CELANESE CORPORATION,	§	
	§	
Plaintiff,	§	
	§	Civil Action No. 3:07-CV-1465-D
VS.	§	
	§	
DAICEL CHEMICAL INDUSTRIES,	§	
LTD., et al.,	§	
	§	
Defendants.	§	

**ORDER**

The June 18, 2008 joint motion enlarging time to answer, move, or otherwise respond to the complaint is granted, and defendants shall have until July 21, 2008 to answer or otherwise respond to plaintiff's complaint.

**SO ORDERED.**

June 18, 2008.

  
\_\_\_\_\_  
SIDNEY A. FITZWATER  
CHIEF JUDGE

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

CELANESE CORPORATION,	§	
	§	
Plaintiff,	§	CASE NO: 3:07-CV1465-D
	§	
v.	§	CIVIL CASE
	§	ECF
DAICEL CHEMICAL INDUSTRIES, LTD.,	§	
and POLYPLASTICS COMPANY, LTD.,	§	
	§	
Defendants.	§	

**JOINT MOTION OF ALL PARTIES  
TO TRANSFER VENUE TO THE SOUTHERN DISTRICT  
OF NEW YORK AND ENLARGE TIME TO ANSWER, MOVE,  
OR OTHERWISE RESPOND TO THE COMPLAINT**

All parties to the above-captioned action (the “Action”) hereby file this Joint Motion of All Parties to Transfer Venue to the United States District Court for the Southern District of New York and Enlarge Time to Answer, Move, or Otherwise Respond to the Complaint (the “Motion”), pursuant to 28 U.S.C. § 1404(a) (“Section 1404(a)"). The parties respectfully move the Court to enter the proposed order filed herewith and transfer the Action to the United States District Court for the Southern District of New York and extend Defendants’ time to answer, move, or otherwise respond to the Complaint in the Action (“Complaint”) up to and including August 20, 2008. In support of this Motion, the parties state as follows:

**I. MOTION TO TRANSFER VENUE TO THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK**

1. This Action relates to a series of agreements pursuant to which Daicel Chemical Industries, Ltd. (“Daicel”) and Celanese Corporation (“Celanese”) agreed to form Polyplastics Company, Ltd. (“Polyplastics”), followed by the transfer of certain know-how and intellectual property rights from Celanese to Polyplastics. (*See generally* Compl.) The conduct

**JOINT MOTION OF ALL PARTIES TO TRANSFER VENUE TO  
THE SOUTHERN DISTRICT OF NEW YORK AND ENLARGE TIME  
TO ANSWER, MOVE, OR OTHERWISE RESPOND TO THE COMPLAINT**

alleged in the Complaint flows mainly from Polyplastics' sales of polymer products in alleged violation of various agreements between Polyplastics and Plaintiff. (*Id.*) In addition to breach of contract claims, Plaintiff has asserted breach of the duty of good faith and of fiduciary duty claims, Lanham Act and common law trademark claims, misappropriation of trade secrets, and unfair competition claims under federal and state law. (*Id.*)

A. Standard For Transfer Pursuant to Section 1404(a).

2. Section 1404(a) provides that “[f]or the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought.” 28 U.S.C. § 1404(a). The purpose of Section 1404(a) is “to prevent waste of time, energy, and money and to protect litigants, witnesses, and the public against unnecessary inconvenience and expense.” *Research in Motion Ltd. v. Visto Corp.*, No. Civ. A. 3:06-CV-0783-D, 2007 WL 1452092, \*2 (N.D. Tex. May 17, 2007) (Fitzwater, J.) (citing *Bank One, N.A. v. Euro-Alamo Invs., Inc.*, 211 F. Supp. 2d 808, 811 (N.D. Tex. 2002) (Fitzwater, J.)). The threshold determination in transferring venue under section 1404(a) is whether the district to which transfer is sought would have been a district in which the claim could have been filed initially. *See In re Horseshoe Entm’t*, 337 F.3d 429, 433 (5th Cir. 2003).

B. This Action Could Have Been Brought in the Southern District of New York.

3. Under 28 U.S.C. § 1391(d), venue is proper in New York because “an alien may be sued in any district.” Defendants Daicel and Polyplastics are both alien corporations under this statute, and thus the Complaint could have been properly filed in the Southern District of New York. *See, e.g., Taylor v. Ishida Co., Ltd.*, No. Civ. A. 3:02-CV-0402-D, 2002 WL 1268028, \*1 (N.D. Tex. May 31, 2002) (holding that where the defendant is a Japanese corporation, venue is appropriate pursuant to 28 U.S.C. 1391(d) because “an alien may

be sued in any district”); *Haaretz Daily Newspapers, Ltd. v. Maariv Modiin Publ’g Co., Ltd.*, No. 98 Civ. 2978 JGK JCF, 1999 WL 796163 (S.D.N.Y. Oct. 6, 1999) (holding that in a case where the plaintiff and defendant reside in different jurisdictions and the defendant is an alien corporation, pursuant to the Alien Venue Act, 28 U.S.C. § 1391(d), the alien defendant may be sued in any district).

4. As such, venue is proper in the Southern District of New York, and the first requirement in the Section 1404(a) inquiry is satisfied. *See* 28 U.S.C. § 1391.

C. The Balance of Considerations Favor Transfer to the Southern District of New York.

5. Transfer of this Action to the Southern District of New York is wholly appropriate in light of the balance of considerations. In particular: (1) the parties chose New York law to govern two key agreements at issue in this case, (2) the parties have agreed to apply New York law to the state statutory and common law claims in this case, and (3) New York is a more convenient venue for party and potential non-party witnesses. All of these factors make New York a more appropriate forum in which to litigate this action.

6. The parties contemplated the possibility of application of New York law and being haled into New York courts. The key contracts between the parties at issue -- the Main Agreement entered into by Celanese and Daicel on June 25, 1962, and the Technology Agreement entered into between Celanese and Polyplastics on May 7, 1964 -- contain New York choice of law provisions.<sup>1</sup> These two agreements were central to the formation of Polyplastics and granting it certain intellectual property rights to manufacture and sell plastics products. Both

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<sup>1</sup> Both the Main Agreement and the Technology Agreement are referenced in the Complaint. Additionally, numerous other agreements between the parties, such as the July 1995 LCP Neat Polymer Technology Agreement, as amended on December 16, 1999 (the “LCP Agreement”) and the March 1, 1972 Polyester Molding Compounding Agreement (the “Polyester Agreement”) are also governed under New York law.

agreements will need to be interpreted in the Action. These facts weigh in favor of transfer to the Southern District of New York.

7. The parties have also agreed to apply New York law to the state statutory and common law claims in this litigation, in an effort to streamline the case and avoid disputes as to the applicable choice of law. As between two Japanese companies and a Texas company, the parties have decided to apply the law of New York -- since New York law is specified in two key agreements between the parties -- and believe that litigating the case in New York will be more efficient because the court there is familiar with New York commercial law. This factor weighs in favor of transfer.

8. New York is a more convenient forum for both parties' potential witnesses. Many international airlines fly daily between New York and Tokyo, thus making travel for court appearances and trial much easier. On the other hand, there are only two daily Tokyo-Dallas flights on only one airline. Additionally, when the contracts at issue in this matter were negotiated, Celanese was headquartered in New Jersey. As such, the parties believe it likely that there are potential Celanese witnesses currently residing in New Jersey -- across the Hudson River from the Southern District -- possibly even within that court's subpoena power.

9. Accordingly, pursuant to 28 U.S.C. § 1404(a), for the convenience of the parties and witnesses, and in the interest of justice, the parties ask this Court to grant this joint Motion to transfer these proceedings to the Southern District of New York.

**II. MOTION TO ENLARGE TIME TO ANSWER, MOVE,  
OR OTHERWISE RESPOND TO THE COMPLAINT**

10. On August 24, 2007, Plaintiff filed the Complaint in the above-captioned matter in the United States District Court for the Northern District of Texas, Dallas Division.

11. Polyplastics was served with the Complaint on February 19, 2008 and Daicel was served with the Complaint on February 21, 2008 pursuant to the rules of the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters. Polyplastics' original deadline to answer or otherwise respond to the Complaint was March 10, 2008 and Daicel's original deadline to answer or otherwise respond to the Complaint was March 12, 2008.

12. On March 7, 2008, the Parties sought an extension of these deadlines until June 6, 2008 in light of the Parties' efforts to discuss potential resolution of the litigation or referral of the dispute to an alternative dispute resolution procedure. The Parties agreed that additional time to answer would be in the interest of justice, would not be for the purpose of delaying the litigation, and would facilitate the resolution of the dispute in a manner that would best serve the interests of the Parties and judicial efficiency. The June 6, 2008 deadline has subsequently been extended by agreement of all Parties and orders of the Court to July 21, 2008.

13. The Parties are continuing their efforts to discuss potential resolution of the litigation, and thus, a further extension of time allowing a new deadline of August 20, 2008, would be in the interest of justice, would not be for the purpose of delaying the litigation, and would facilitate the resolution of the dispute in a manner that would best serve the interests of the Parties and judicial efficiency.

14. Specifically, top managerial personnel of each of the Parties have attended meetings within the last month to discuss this litigation, including in-person meetings between

key business personnel on June 13-14. Additional meetings among top managerial personnel are being scheduled for later in July to be held in Frankfurt, Germany. Among the topics being discussed in these meetings are a possible agreement to resolve some or all of the issues in dispute between the Parties and possible alternative mechanisms for resolving and streamlining the disputes. A further extension of time, therefore, will assist the Parties in furthering their negotiations regarding these and other issues in an effort to narrow or resolve the actual disputed issues between them.

15. By making this motion and by accepting the terms of the Proposed Agreed Order, the Parties do not waive their rights with respect to any other potential issues in this litigation, including their respective positions regarding jurisdictional defenses under Rule 12 of the Federal Rules of Civil Procedure either by motion or otherwise, or any other motion that they may make.

### **III. REQUESTED RELIEF**

WHEREFORE, the Parties respectfully request this Court order as follows:

16. The Parties respectfully request that this Court enter the proposed Order filed herewith and transfer this Action to the United States District Court for the Southern District of New York.

17. The Parties respectfully request that the deadline for Defendants to answer, move, or otherwise respond to the Complaint be extended up to and including August 20, 2008.

Respectfully submitted this 17th day of July, 2008.



/s/ Vance L. Beagles

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*Attorneys for Defendant Daicel Chemical  
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*Attorneys for Plaintiff Celanese Corporation*

**CERTIFICATE OF CONFERENCE**

Pursuant to Local Rule 7.1, I hereby certify that counsel for Defendants conferred with counsel for Plaintiff regarding the subject matter of the Agreed Motion of All Parties to Transfer Venue to the Southern District of New York and Enlarge Time to Answer, Move, or Otherwise Respond to the Complaint to Transfer Venue to the Southern District of New York and all parties agree to the transfer and enlargement of time.

/s/ Liani Kotcher  
Liani Kotcher

**CERTIFICATE OF SERVICE**

I hereby certify that on July 17, 2008, I electronically transmitted the Agreed Motion of All Parties to Transfer Venue to the Southern District of New York and Enlarge Time to Answer, Move, or Otherwise Respond to the Complaint using the ECF system for filing and transmittal of a Notice of Electronic Filing to those parties registered for ECF in this case. I further certify that the foregoing document was served on all counsel of record by ECF.

/s/ Liani Kotcher  
Liani Kotcher

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

CELANESE CORPORATION,

Plaintiff,

v.

DAICEL CHEMICAL INDUSTRIES,  
LTD., and POLYPLASTICS  
COMPANY, LTD.,

Defendants.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. 3:07-CV-01465-D

ECF

**[PROPOSED] AGREED ORDER TRANSFERRING VENUE  
TO THE SOUTHERN DISTRICT OF NEW YORK AND ENLARGING  
TIME TO ANSWER, MOVE, OR OTHERWISE RESPOND TO THE COMPLAINT**

To conserve party and judicial resources and in light of the parties' ongoing efforts to resolve this dispute, the Court hereby GRANTS the Joint Motion of All Parties to Transfer Venue to the Southern District of New York and Enlarge Time To Answer, Move or Otherwise Respond to the Complaint, without waiver of any rights regarding jurisdictional defenses or motions that might be made pursuant to Rule 12 of the Federal Rules of Civil Procedures. This Action is hereby transferred to the United States District Court for the Southern District of New York, and Defendants' time to answer, move, or otherwise respond to the Complaint is extended up to and including August 20, 2008.

IT IS SO ORDERED.

**[PROPOSED] AGREED ORDER TRANSFERRING VENUE TO THE  
SOUTHERN DISTRICT OF NEW YORK AND ENLARGING TIME TO  
ANSWER, MOVE, OR OTHERWISE RESPOND TO THE COMPLAINT**

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Dated: \_\_\_\_\_

\_\_\_\_\_  
Honorable Sidney A. Fitzwater  
United States District Judge

\_\_\_\_\_  
/s/Karen L. Hirschman  
Karen L. Hirschman  
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\_\_\_\_\_  
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**[PROPOSED] AGREED ORDER TRANSFERRING VENUE TO THE  
SOUTHERN DISTRICT OF NEW YORK AND ENLARGING TIME TO  
ANSWER, MOVE, OR OTHERWISE RESPOND TO THE COMPLAINT**

**PAGE 2**

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**[PROPOSED] AGREED ORDER TRANSFERRING VENUE TO THE  
SOUTHERN DISTRICT OF NEW YORK AND ENLARGING TIME TO  
ANSWER, MOVE, OR OTHERWISE RESPOND TO THE COMPLAINT**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

CELANESE CORPORATION,	§	
	§	
Plaintiff,	§	
	§	Civil Action No. 3:07-CV-1465-D
VS.	§	
	§	
DAICEL CHEMICAL INDUSTRIES,	§	
LTD., et al.,	§	
	§	
Defendants.	§	


**ORDER**

To conserve party and judicial resources, and in light of the parties' ongoing efforts to resolve this dispute, the court grants the parties' July 17, 2008 joint motion to transfer venue to the Southern District of New York and enlarge time to answer, move or otherwise respond to the complaint, without waiver of any rights regarding jurisdictional defenses or motions that might be made pursuant to Rule 12 of the Federal Rules of Civil Procedure.

Accordingly, this action is hereby transferred to the United States District Court for the Southern District of New York, and defendants' time to answer, move, or otherwise respond to the complaint is extended to and including August 20, 2008.

**SO ORDERED.**

July 18, 2008.

  
SIDNEY A. FITZWATER  
CHIEF JUDGE

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS**

Division:

SUBJECT:

Dear Deputy Clerk:

The above action has been transferred to your court.

Enclosed is a certified copy of the transfer order and docket sheet. You may access electronically filed documents at our DCN CM/ECF web address: <https://ecf.txnd.uscourts.gov>. A guest login and password may be found on our website at: [http://ntnet.txnd.circ5.dcn/pdf/irc/guest\\_login.pdf](http://ntnet.txnd.circ5.dcn/pdf/irc/guest_login.pdf).

Once logged into our CM/ECF database, you can query the case and download or print the PDFs for your court's file. If you find our headers at the top of each document to be a problem, they can be removed by going through Utilities, Maintain Your Account, and turning off the PDF Header before you download or print the documents.

Any documents not available electronically are enclosed in paper format.

Please acknowledge receipt of the certified copy of the transfer order, docket sheet and original documents, if any, by email to the Intake Section of the appropriate division:

Please reference our case number and brief style in the subject of your email acknowledgment.

Sincerely,  
KAREN MITCHELL  
Clerk of Court